

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

Eastern Division

PENNYMAC LOAN SERVICES, LLC,

Plaintiff,

CIVIL ACTION
**Case No: 2:19-cv-00193- HSO-
MTP**

-vs-

INNOVATED HOLDINGS, INC. dba
SITCOMM ARBITRATION
ASSOCIATION; MARK MOFFETT;
SANDRA GOULETTE; RONNIE
KAHAPEA; MARK JOHNSON, KIRK
GIBBS; BRETT “EEON” JONES aka EEON
aka BRETT JONES aka BRETT TORIANO
JONESTHEOPHILIOUS aka BRETT
RANDOFF TORIANO KEEFFE HENRY
KANA-SHAPHEL HITHRAPPE JONES-
THEOPHILUS fka KEEFE BRANCH; and
RANCE MAGEE,

**PLAINTIFF PENNYMAC
LOAN SERVICES, LLC’S
RESPONSE IN OPPOSITION
TO KIRK GIBBS’ MOTION TO
APPOINT COUNSEL
(DOCKET 189)**

Defendants.

**PLAINTIFF PENNYMAC LOAN SERVICES, LLC’S RESPONSE IN
OPPOSITION TO KIRK GIBBS’ MOTION TO APPOINT COUNSEL
(DOCKET 189)**

COMES NOW plaintiff, PennyMac Loan Services, LLC (“PennyMac”) to file
its Opposition to Kirk Gibbs’ Motion to Appoint Counsel (Docket 189) (the
“Motion”) showing the following:

1. Gibbs asks this Court to appoint an attorney for him pursuant to the
Criminal Justice Act or, in the alternative, 28 U.S.C. § 1915(e)(1). He claims that

this appointment is necessary because of a pending criminal proceeding against him in the United States District Court, Eastern District of Virginia (the “Contempt Hearing”).

2. Gibbs is not entitled to the appointment of an attorney pursuant to the Criminal Justice Act because this case is not ancillary to the Contempt Hearing. Rather, the Contempt Hearing relates to Gibbs’ failure to appear, despite court order, in the action initiated by co-Defendant Mark Johnson against PennyMac in the United States District Court, Eastern District of Virginia to confirm an illegitimate arbitration award. (Johnson v. PennyMac Loan Services, LLC, Case No. 3:19-cv-00837-DJN) (the “Virginia Action”). The Contempt Hearing does not pertain to the fraudulent arbitration scheme perpetrated by Gibbs and his fellow co-defendants, as alleged by PennyMac, and Gibbs testimony in this action would not incriminate him in the Contempt Hearing. And, although the Virginia Court referred the Virginia Action to the United States Attorneys’ office for possible criminal violations, Gibbs does not claim that there are pending criminal charges related to that referral.

3. In addition, Gibbs has not shown that there are extraordinary circumstances warranting the appointment of counsel under the *in forma pauperis* statute, 28 U.S.C. § 1915(e)(1). Rather, over the past fourteen months, Gibbs has been adequately representing himself by appearing at court conferences, filing

papers, including an answer and motions to dismiss, all without counsel. (Dkt Nos. 24, 52.)

4. As set forth in this Response in Opposition, Memorandum filed in Support, and Declaration of Nicole Metral, the Motion should be denied.

Dated: April 5, 2021

Respectfully submitted,

/s/ Nicole Bartz Metral

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Counsel for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is **BLANK ROME LLP**, 2029 Century Park East, 6th Floor, Los Angeles, California 90067.

On **April 5, 2021**, I served the foregoing document(s):

**PLAINTIFF PENNYMAC LOAN SERVICES, LLC'S RESPONSE IN
OPPOSITION TO KIRK GIBBS' MOTION TO APPOINT COUNSEL
(DOCKET 189)**

on the interested parties in this action addressed and sent as follows:

SEE ATTACHED SERVICE LIST

- ☒ **BY ENVELOPE:** by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelope(s) addressed as indicated and delivering such envelope(s):
- ☒ **BY CERTIFIED MAIL:** I caused such envelope(s) to be deposited in the mail at Los Angeles, California with postage thereon fully prepaid to the office or home of the addressee(s) as indicated. I am "readily familiar" with this firm's practice of collection and processing documents for mailing. It is deposited with the U.S. Postal Service on that same day, with postage fully prepaid, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- ☒ **BY FEDEX:** I caused such envelope(s) to be deposited in a box or other facility regularly maintained by FedEx, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents in an envelope designated by the said express service carrier, addressed as indicated, with delivery fees paid or provided for, to be transmitted by FedEx.
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on **April 5, 2021**, at Los Angeles, California.

Charman S. Bee

Charman Bee

SERVICE LIST

Pennymac Loan Services, LLC v. Sitcomm Arbitration Association, et al.;

Case No. 2:19-cv-00193-KS-MTP

BY CERTIFIED MAIL:

Ronnie Kahapea P.O. Box 875 Volcano, HI 96785	Defendant
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BY FEDEX:

Mark Johnson 451 May Lane Louisa, VA 23093	Defendant
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Kirk Gibbs 4115 Lawrenceville Rd. PMB 8119 Lilburn, GA 30047	Defendant
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Sandra Goulette 3007 Crescent Hill Drive Laurel, MS 39440	Defendant
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Mark Moffett 345 Coon Jeffcoat Road Soso, MS 39480	Defendant
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Rance Magee 11294 Rose Road Emmett, MI 48022	Defendant
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Innovated Holdings, Inc. dba Sitcomm Arbitration Association C/O Registered Agents, Inc. 30 N. Gould Street, Suite R Sheridan, WY 82801	Defendant
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Brett "Eeon" Jones 304 South Jones Boulevard Unit Eeon-1967 Las Vegas, NV 89107	Defendant
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